

FAQ on Retail Food Establishment and Meat Processing Operations

1-2025

Issue/Question	DATCP Response
<p>1. We are required to have the county also come and do a retail inspection. They were here for almost a day, asking questions and taking down information. Not that 1 day of time is a lot in the grand scheme, but we already have a meat inspector here all the time already so it is a duplication of someone checking on us that we are following the same rules.</p>	<p>Depending on your business model, a retail food establishment and/or meat establishment license may be required. These distinct activities are governed by two different State regulatory agencies (Bureau of Meat and Poultry Businesses (BMPB) and Bureau of Food and Recreational Businesses (BFRB)), and administrative rules (Wis. Admin. Code chs. ATCP 55 and ATCP 75.</p> <p>Meat establishment operations involving the wholesale distribution of meat products are regulated under USDA requirements by the BMPB under the DATCP’s regulatory authority found in Wis. Stats. ch 94.42(2) and Wis. Admin Code. ch. ATCP 55.</p> <p>Meat items produced for retail sale directly to the consumer are regulated by BRFB under the Wisconsin Food Code, developed in accordance with the FDA Model Food Code under the DATCP’s regulatory authority found in Wis. Admin. Code ch. ATCP 75.</p> <p>Each Bureau has regulations designed to provide food safety protections in very distinct food production operations.</p> <p>The USDA requires continuous inspection, meaning inspection personnel perform inspection activities for the duration of slaughter, and daily for processing, packaging, and labeling operations for meat products intended to bear the marks of inspection. Meat items produced solely for retail sale may or may not be produced under inspection or bear a mark of inspection.</p> <p>The DATCP retail food program is based on an annual inspection that focuses on risk-based inspection methods and active managerial control of the retail food operation.</p> <p>*At a Licensed Meat Establishment:</p> <ul style="list-style-type: none"> • <i>It is important to understand that once an inspected meat product enters a retail environment in bulk form without the marks of inspection, it must remain as a retail product and cannot later be returned for additional processing under the meat inspection program.</i> <p>* At Retail:</p> <ul style="list-style-type: none"> • <i>If a meat product maintains a mark of inspection, it is considered a product produced under the State or Federal</i>

	<p><i>inspection programs and not subject to retail code requirements for production.</i></p> <ul style="list-style-type: none"> • <i>HACCP plans reviewed by BMPB or Food Safety Inspection Service (FSIS) may not contain all elements necessary for a meat product without the mark of inspection to be sold in a retail environment.</i> • <i>Meat items sold at retail may also require a HACCP plan for processes these other agencies do not require. (Fish smoking and reduced oxygen packaging, for example).</i> <p>More information can be found on DATCP's webpage. https://datcp.wi.gov/Documents2/FAQsMeatRetailLicensing.pdf https://datcp.wi.gov/Documents2/MeatEstablishmentLicenseBulletin.pdf</p>
<p>2. As a small business, we already pay to be state inspected. There are probably other costs related to state inspection that are borne by the processor that are not coming to mind. To have to pay all these costs, and then also be required to pay a license fee to the county to regulate the same exact thing seems like an extra burden for processors.</p>	<p>Processing related to wholesale and retail are governed under differing regulations and regulatory arms. Please see the answer above for more details.</p> <p>Meat products produced onsite under State or Federal inspection, which are in their final packaging and bear the mark of inspection, may be sold at retail without an additional retail food establishment license. USDA regulations require a separation between retail food processing and meat processing operations by time and/or space. Meat Safety Inspectors do not perform inspections of activities considered to be retail food operations.</p> <p>Retail food establishment licenses are required for any temperature controlled for safety (TCS) food or food processing that occurs in the retail environment for sale directly to the consumer, including any meat processing that does not bear a mark of inspection whether performed in the retail or meat plant environment. Retail food operations are governed under the Wisconsin Food Code.</p> <p>As a business model, if both wholesale meat processing and retail food operations occur, including meat processing without the benefit of inspection, a separate license is required for each activity.</p>
<p>3. In some cases, there is confusion between the county interpretation of the rules and the state inspectors and so we follow the guidelines of the inspector that is here everyday. When the county people come in 1 or 2 times a year and tell us how to do something differently than what has been our expectation day in and day out, that is confusing and a waste of everyone's time.</p>	<p>Meat processing operations and retail food establishment operations each have their own distinct rules based on the regulatory code governing each.</p> <p>Wholesale meat processing operations follow USDA and/or State regulations and should meet the requirements for that rule. This guidance is provided by the meat inspection staff who have specific knowledge in requirements for meeting ATCP 55 and USDA regulations.</p>

	<p>Meat processed for retail sale without the mark of inspection or any other TCS food for sale directly to the consumer should meet the requirements in the Wisconsin Food Code. This guidance is provided by the retail food inspection staff who have specific knowledge in requirements for meeting the Wisconsin Food Code.</p> <p>Although there is some overlap between processes, you should defer to the inspector for program specific guidance and equipment needs based on your license type and rules that govern that operation.</p> <p>*It is important to note that a meat product produced under inspection must bear a mark of inspection and may be wholesaled or sold at retail. Plants may produce meat products that have not undergone inspection or do not bear the mark of inspection, but the meat item can only be for retail sale, only at their location direct to consumers. If further special processing of any meat item, such as ROP, occurs at the retail level, additional requirements such as a HACCP plan or variance may be required and any mark of inspection is lost.</p> <p>*HACCP Plans may be honored that were developed under meat processing, but only to the extent they reflect the meat item in question and the process described in the HACCP plan. Any additional processing that occurs at retail may require additional HACCP plans under the retail food establishment license.</p> <p>* A retail food inspector may ask for plans and records for all retail food items produced for retail sale and may take regulatory action if logs and/or the HACCP plan is not up to date or production logs are not being documented.</p> <p>*Any meat item produced under inspection and bears a mark of inspection can be placed in the retail case. If that is the only meat product for sale and no other time/temperature food products are for sale at retail, a separate retail food establishment license is not required.</p>
<p>4. The retail inspectors have come into our facilities with no training on our industry and the processes we have in place. Therefore, we are trying to help them understand our industry as they try to apply a set of regulations that was not designed for our processes. We have USDA inspectors in our plants 7 days a week monitoring our processes, and the retail is 1 or 2 times a year.</p>	<p>Retail food inspectors perform a risk-based inspection only on activities and processes that occur within the retail food operation under the retail food establishment license. Retail food inspectors are not specifically trained in USDA regulations but are trained in HACCP principles and inspection regardless of the food item. They have specific knowledge of retail food safety and equipment requirements required under the Wisconsin Food Code.</p> <p>The State/USDA meat inspectors are not monitoring any meat processing activities that may be occurring in the retail environment.</p>

	<p>In discussion with the Bureau of Meat and Poultry Businesses, it was conveyed that USDA now mandates their inspectors only focus on meat processing operations that occur under the meat license. Retail operations are the responsibility of FDA and State regulatory programs.</p> <p>In 2020, when the Wisconsin Food Code and ATCP 75 was revised, this gap in oversight was addressed resulting in retail food establishment licenses being required in meat establishments that perform retail food activities.</p>
<p>5. County and state should share and be on the same page. Our county has different labeling requirements (less requirements) than what we have been required to have in the past.</p>	<p>Local Health Departments can enter into an agreement with DATCP to license and inspect retail food establishments. These health departments are referred to as an “Agent” of the Department. The Agents are required to follow all administrative rules and statutory requirements under the authority of DATCP. However, Wisconsin is a “home rule” state and local governments can enact ordinances that can be stricter than State requirements. The department spends much time training and educating inspection staff regardless if they are State staff or local health department staff. Our goal is consistency throughout the state. With that being said, providing oversight to a workforce of hundreds of environmental health inspection staff across the state is challenging. We encourage you to contact DATCP if you observe inconsistencies so we can address any miscommunications.</p> <p>* In general, it is important to note that State/USDA meat inspection staff may require additional information on labeling of meat products based on administrative, statutory, or federal requirements.</p>
<p>6. I was told I need a license under ACTP 75 in order to add pork to wild game if I purchase the pork from an outside source. If I slaughter the pork in house, I would not be required to get the license under ACTP 75. This makes no sense and is not correct, but this is what I am being told by inspection staff.</p>	<p>The answer to both questions is yes, you would need a retail food establishment license. If an amenable animal product is being added during wild game processing, a retail food establishment license is required. Please see provided link for more information on wild game processing and licensing requirements.</p> <p>VenisonFactSheet.pdf (wi.gov)</p>
<p>7. Retail only allows 7 days on all refrigerated products. No matter what. This makes sense when we are dealing with RTE deli slicing products, fresh meat, etc. However, this rule also applies to all of our smoked products (which the state allows 30 days to sell through this product). But this is extremely problematic as some of this same product can also have 60 or 180 days of shelf life on it depending on water activity, acidity level etc.</p>	<p>On meat items processed under a retail food establishment license, many options exist related to the date marking of a meat product.</p> <p>The 7-day date marking requirement is only required when the food item in question is a ready-to-eat time/temperature controlled for food safety item or science is not provided that indicates the process involved can maintain a longer shelf-life. The concern at retail and the reason for the 7-day date marking is to address <i>Listeria monocytogenes</i>.</p> <p>The following points may help clarify any confusion:</p>

Ready-to-eat (RTE), time/temperature controlled for safety (TCS) food. (without reduced oxygen packaging); 7-day date marking, unless,

- The product has a pH below 4.2 or a water activity (A_w) less than .88.
 - The product is considered non-TCS.
 - No date marking required.
- Product assessment is performed:
 - The combination of pH and A_w renders the food item as non-TCS. (Table B in the Food Code)
 - No date marking required.
- Scientific evidence showing shelf stability for longer than 7 days.
 - The date mark is determined by the scientific studies.
- Shelf stable, dry fermented sausages, such as pepperoni and Genoa from a manufactured food processing plant.
 - No date marking required.
 - Follow the manufacturer's use-by date.
- Shelf stable salt-cured products such as prosciutto and Parma (ham) from a manufactured food processing plant.
 - No date marking required.
 - Follow the manufacturer's use-by date.
- Special processes at retail (*smoking for preservation, curing, or using food additives or adding components such as vinegar*)
 - Scientific evidence supports a date mark longer than 7-days.
 - Variance and HACCP plan required from retail.

Raw meat (Without reduced oxygen packaging and no special processing at retail)

- No date marking is required at retail.

Special processes at retail (raw or ready-to-eat) (*smoking for preservation, curing, or using food additives or adding components such as vinegar, including the process of reduced oxygen packaging*); 7-day date marking, unless,

- One of the following applies:
 - Has an A_w of 0.91 or less,
 - Has a pH of 4.6 or less,
 - Is a meat or poultry product cured at a food processing plant.
 - Is a food with a high level of competing organisms such as raw meat, raw poultry, or raw vegetables.
 - If one of the above criteria is met, a 30-day date mark can be granted.
- Scientific evidence supports a date mark longer than 7 days.

	<ul style="list-style-type: none"> ○ Special processes (including smoking, curing, ROP, and fermentation) conducted in the retail environment may require an additional variance and/or HACCP plan. ○ HACCP plans reviewed under the state or federal meat inspection program can be accepted and included with submission to the department with additional HACCP Plans for processes performed under the retail food establishment license (ex. reduced oxygen packaging at retail). <p><i>* Remember: At retail, freezing the product stops the clock. When the product is thawed, the date mark is applied. Keep in mind the production date counts as day one.</i></p>
<p>8. Our shrink has increased because we only get 7 days shelf life now vs. 30 days under the meat license.</p>	<p>Several options are available beyond the 7-day date marking that include:</p> <ul style="list-style-type: none"> ● Submitting science supporting a longer shelf life. ● Freezing portions at retail delays the date marking requirement until thawed. ● Conduct reduced oxygen packaging of these meat items under meat inspection. <p><i>*Important to remember that any special processes conducted under retail require additional variances and or HACCP plans.</i></p>
<p>9. We currently have 4 active state inspected HACCP plans (Raw Non-Intact, Raw Intact, Ready to Eat Not shelf stable (snack sticks, summer sausage, etc.) and Not Ready to Eat Not Shelf Stable (bacon). However, Retail has the exact same HACCP requirements as the State but they look at the HACCP plans very differently.</p>	<p>There are some differences between what is required for meat establishments and retail operations, but the main contents of the HACCP plan remain the same and are accepted by the retail program and its agents. You may need to submit additional materials as required under the Wisconsin Food Code for special processes. The primary difference is that reduced oxygen packaging is considered a special process at retail and if that occurs, you must submit additional HACCP plans for that process. We do routinely accept HACCP plan components required under a meat establishment license without having to completely generate a new HACCP Plan.</p> <p>Please reach out to our retail technical specialists if you have questions: DATCPDFRSRetail@wisconsin.gov</p>
<p>10. Our plant submitted HACCP Plans for Cryovac. We were told they meet Federal Standards, but not State Retail Standards.</p>	<p>Sorry, I need more information about the issue, not sure, if this is a date marking question or packaging material question?</p>
<p>11. We are only allowed to put out enough packages for a few days now, so we have had to increase labor to stock our smoked meat section daily. Labor has gone up 9% since this took effect. It has also dropped sales by 15% because our case looks empty because we can only have a little bit of product out at a time.</p>	<p>For additional options beyond 7-days, see the answers provided under # 7.</p>

<p>12. We have had to allocate more space to our freezer because we can't put the product on the retail medium temp shelf.</p>	<p>Yes, freezing is one option to suspend the 7-day date marking. Another option would be providing supportable science in your HACCP plan submittal for a longer date mark period.</p>
<p>13. When product that is produced under inspection but not prepackaged or labeled goes into our retail case even though this case is covered under our same HACCP plans and temperature is monitored, the product cannot enter back into inspected product if it doesn't sell and therefore a perfectly good protein is then thrown away making it a 100% loss for the company as well as the waste of our resources.</p>	<p>Even though a bulk meat product may be produced under inspection, once the bulk meat product is placed in a retail case for sale, it loses its mark of inspection. If that product does not sell, it cannot go back into production and have a legend applied.</p> <p>Several options are available for this product once it is in the retail case, and it depends if we are talking about a raw meat product or a ready-to-eat TCS food and whether or not this product will be further processed at retail like reduced oxygen packaging.</p> <p>Please contact the retail technical mailbox for additional questions regarding your particular process.</p> <p>DATCPDFRSretail@wisconsin.gov</p>
<p>14. If we make sausage with shelf life from 30 days to 365 days under meat inspection, if we were to make these same sausages under the food code (not under USDA inspection, so items we took out of retail case instead of throwing them away) we are only allowed a 7-day shelf life unless we file for a variance which is a long process and needed for every different item. Food code was written for restaurants and other food service industries not for the meat industry where our processes are very different and food safety is at the forefront of all that we do.</p>	<p>Please see responses to your question above in #1 -3 and 7. It is also possible that similar meat items can be grouped under one HACCP plan depending on the specialized process involved.</p> <p>The Food Code was developed for retail food operations. If you have a retail case or are producing a meat product for retail sale without the mark of inspection, you must meet all the same requirements as any other retail food establishment. Meat processing operations conducted under USDA regulations do not cover retail food operations, which fall under the jurisdiction of FDA.</p> <p>Please contact the retail technical mailbox for additional questions regarding your particular process.</p> <p>DATCPDFRSretail@wisconsin.gov</p>
<p>15. A retail inspector came to my premises and found a package of chicken that had the WIS State Legend on it but was in the original packaging from a different facility. I was told this was a violation because I did not have a license under ACTP 75 and I did not process the chicken in my facility. I then took a knife and stabbed the chicken through the package in front of the inspector. After that, I legally placed the chicken back in the showcase with the State Legend on it.</p>	<p>Please provide additional information, so I have the opportunity to investigate this further. I do not have full understanding of what the circumstances are here.</p> <p>Please contact the retail technical mailbox so we can explore this issue further.</p> <p>DATCPDFRSretail@wisconsin.gov</p>
<p>16. I believe ACTP 75 follows FDA guidelines while ACTP 55 follows USDA guidelines. These are two separate books of regulations, and they are</p>	<p>You are correct that ATCP 75 and 55 fall under different regulatory structures based on the type of meat processing or retail activity that is occurring. If you choose to engage in meat processing and retail</p>

<p>not the same. I do not have time to learn and follow two types of regulations.</p>	<p>activities as a business model, you are required to be licensed for each activity and comply with all applicable administrative rules and license requirements. As a business model, you can choose to simplify your business operation by only producing and selling meat products produced under inspection or performing all activities for retail under a retail license.</p> <p>Please contact the retail technical mailbox for further questions.</p> <p>DATCPDFRSretail@wisconsin.gov</p>
<p>17. Since the change in ACTP 75, I now retail all my meat products under the mark of inspection as I have a license under 97.42. The products I would like to sell but am unable to under 97.42 are fish and CHEESE. Yes, I had to pull all the cheese from my showcase and no longer sell it. We live in Wisconsin and the cheese I would like to sell is covered in red tape because of this law change.</p>	<p>Retailing cheese and fish products produced from other approved sources in your store usually only requires a simple retail food establishment license, if on the other hand you are buying in bulk, further processing/repackaging and ROP'ing, you would be conducting a special process that would require a HACCP Plan. You certainly are able to sell cheese and fish that comes in prepackaged and is sold prepackaged with a simple retail food establishment license with few regulatory requirements.</p> <p>Please contact the retail technical mailbox for further questions.</p> <p>DATCPDFRSretail@wisconsin.gov</p>